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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,051	02/18/2005	Danny S. Moshe	29402	5676

7590 11/16/2006
Anthony Castorina
Suite 207
2001 Jefferson Davis Highway
Arlington, VA 22202

EXAMINER

PUNNOOSE, ROY M

ART UNIT PAPER NUMBER

2877

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/525,051

Applicant(s)

MOSHE, DANNY

Examiner

Roy M. Punnoose

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-93 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 54-93 is/are allowed.
- 6) ☒ Claim(s) 21-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/22/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. The 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 21-53 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

3. Claim 21 is rejected because it is claiming a non-tangible result. In claim 21, merely detecting said rod material volumetric segment transmitted beam by a detection unit of said electro-optical transmission module, for forming a detected rod material volumetric segment transmitted beam useable for determining the internal properties and characteristics of the longitudinally moving rod of material would not appear to be sufficient to constitute a useful, concrete and tangible result, since the outcome of the detecting or determining step has not been used in a disclosed practical application nor made available (in the claim) in such a manner that its usefulness in a disclosed practical application can be realized. See OG Notices: 22 November 2005, "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility".

4. Claim 52 is rejected because it is claiming a non-tangible result. In claim 52, merely generating a continuous vortical type of flow of gas within and along said transparent passageway by a vortex generating mechanism, such that said flowing gas rotates as a vortex around said optical path and around the longitudinally moving rod of material, and flows downstream within and along said transparent passageway in same longitudinal direction of the longitudinally moving rod of material, such that said flowing gas radially impinges upon the

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longitudinally moving rod of material within said transparent passageway, whereby said flowing gas radially impinging upon the longitudinally moving rod of material prevents, eliminates, or reduces, radially directed vibrating of the longitudinally moving rod of material during the electro-optically inspecting the longitudinally moving rod of material would not appear to be sufficient to constitute a useful, concrete and tangible result, since the outcome of the generating or inspecting step has not been used in a disclosed practical application nor made available (in the claim) in such a manner that its usefulness in a disclosed practical application can be realized. See OG Notices: 22 November 2005, "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility".

The applicant is requested to determine whether the claimed invention complies with the subject matter eligibility requirement of 35 U.S.C. Sec. 101, sentence 3, in the OG Notice from 22 November 2005, which states "In determining whether the claim is for a practical application, the focus is not on whether the steps taken to achieve a particular result are useful, tangible, and concrete, but rather that the final result achieved by the claimed invention is "useful, tangible, and concrete."

5. Claims 22-51 and 53 are rejected for reasons similar to the reasons of rejection of claim 21 and 52 above respectively because they are not claiming a useful, concrete and tangible result and therefore are directed to non-statutory subject matter. Claims 22-51 and 53 comprise(s) intermediate step(s) in the claimed methods.

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Allowable Subject Matter

6. Claim 54 is allowable because none of the prior art documents disclose a device for electro-optically inspecting and determining internal properties and characteristics of a longitudinally moving rod of material, comprising a detection unit for detecting said rod material volumetric segment transmitted beam, for forming a detected rod material volumetric segment transmitted beam useable for determining the internal properties and characteristics of the longitudinally moving rod of material, in combination with the rest of the limitations of the respective claims.

7. Claim 92 is allowable because none of the prior art documents disclose a device for preventing, eliminating, or reducing, radially directed vibrating of a longitudinally moving rod of material during electro-optically inspecting the longitudinally moving rod of material, comprising a rod guiding unit that includes a vortex generating mechanism for generating a continuous vortical type of flow of gas within and along said transparent passageway, in combination with the rest of the limitations of the respective claims.

8. Claims 21-54 would be allowable if amended to overcome applicable 35 USC 101 rejections above.

Contact/Status Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Roy M. Punnoose** whose telephone number is **571-272-2427**.

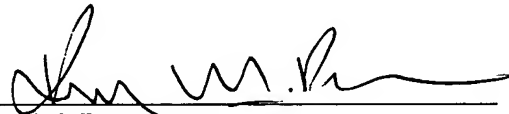
The examiner can normally be reached on 9:00 AM - 5:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Gregory J. Toatley, Jr.** can be reached on **571-272-2800 ext.77**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 13, 2006


Roy M. Punnoose
Patent Examiner
Art Unit 2877